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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

LELANI R. SNYDER and JOSEPH P.  
MANISCALCO,

Plaintiffs,

v.

MERCEDES-BENZ USA, LLC,  
a Foreign Limited Liability Company  
and JAYCO, INC.,  
a Foreign Profit Corporation,

Defendants.

Case No.:

**NOTICE OF REMOVAL**

In accordance with 28 U.S.C. §§ 1331, 1332(a), 1441, and 1446, and D.

Mont. L. R. 3.3, Defendant Jayco, Inc. hereby removes to this Court the state court action described below.

### **NOTICE OF REMOVAL IS TIMELY**

1. Plaintiffs filed a civil action against Defendant Jayco, Inc. on July 2, 2021, in the Montana Fourth Judicial District Court, Missoula County, entitled *Lelani R. Snyder and Joseph P. Maniscalco v. Mercedes-Benz USA, LLC, a Foreign Limited Liability Company and Jayco, Inc., a Foreign Profit Corporation*, Cause No. DV-21-802.

2. On or about July 19, 2021, Plaintiffs served a Summons and Complaint with exhibits on Defendant Jayco, Inc. Copies of the Summons and Complaint with exhibits are attached as **Exhibit A**, pursuant to 28 U.S.C. § 1446(a). Exhibit A contains all process, pleadings and orders Defendant received from Plaintiffs in this action as of the date of this Notice.

3. Pursuant to 28 U.S.C. § 1446(b), Defendant Jayco, Inc. filed the Notice of Removal within thirty (30) days of service of Plaintiffs' Complaint. Removal is therefore timely.

### **DIVERSITY JURISDICTION APPLIES**

4. Pursuant to 28 U.S.C. § 1332, the United States District Court for the District of Montana has original jurisdiction over this action, and removal to this Court is appropriate based on diversity jurisdiction. This is a civil action between citizens of different states and the amount in controversy, as alleged by Plaintiffs, exceeds \$75,000.00, exclusive of interest and costs. 28 U.S.C. §§ 1332 and 1441.

5. This Court has diversity jurisdiction, pursuant to 28 U.S.C. § 1332, for the following reasons:

- a. This is a civil action.
- b. Plaintiffs seek damages of \$102,220.00, excluding interest and costs. (*See* Complaint, ¶ 37; Complaint, Prayer for Relief; Purchase Agreement, attached to Complaint as Exhibit A.)
- c. Plaintiffs are citizens of the state of Wyoming. That is, Plaintiffs' domicile—or permanent residence—is in Wyoming, as evidenced by the following: 1) Plaintiffs own the subject property in Cody, Wyoming; and 2) Plaintiffs' home address at all material times, as provided in the Complaint, is in Cody, Wyoming. (*See* Complaint, ¶ 1.)
- d. Defendant Jayco, Inc. is a corporation incorporated under the laws of Indiana, with its principal place of business in the state of Indiana. Thus, Defendant Jayco, Inc. is a citizen of the state of Indiana.
- e. Defendant Mercedes-Benz USA, LLC is a Delaware limited liability company with its principal place of business in Georgia. “[A]n LLC is a citizen of every state of which its owners/members are citizens.” *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). Mercedes-Benz USA, LLC's sole member is Daimler North America Corporation (“Daimler”), a Delaware corporation

with its principal place of business in Michigan.<sup>1</sup> Thus, Daimler is a citizen of Delaware and Michigan, and accordingly, for purposes of diversity jurisdiction, Mercedes-Benz, LLC, is also a citizen of Delaware and Michigan.

### **FEDERAL QUESTION JURISDICTION APPLIES**

6. Pursuant to 28 U.S.C. § 1331, this Court also has original jurisdiction over this matter due to Plaintiffs' claim that Defendant violated the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.* (See Complaint, ¶¶ 28–38.) Plaintiffs' claim exceeds the amount in controversy limit of \$50,000. 15 U.S.C. § 2310(d)(3)(B). This Court can properly exercise original, federal question jurisdiction over this action. *See, e.g., Kelly v. Fleetwood Enters.*, 377 F.3d 1034, 1037 (9th Cir. 2004).

### **REMOVAL TO THIS DISTRICT AND DIVISION IS PROPER**

7. Pursuant to 28 U.S.C. §§ 1331, 1332(a), 1441 and 1446, removal of the above-captioned state court action to the United States District Court for the District of Montana, Missoula Division is appropriate.

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<sup>1</sup> See *Munoz v. Mercedes-Benz USA, LLC*, No. SACV 19-1857 JVS (JDEx), 2019 U.S. Dist. LEXIS 205597, at \*2 (C.D. Cal. Nov. 26, 2019); *Washington v. Mercedes-Benz USA, LLC*, No. CV 20-03133-CJC(KSx), 2020 U.S. Dist. LEXIS 100467, at \*4 (C.D. Cal. June 3, 2020); *See, e.g., Mercedes-Benz United States, LLC v. Kaisha*, Civil Action No. 18-13764 (SRC), 2018 U.S. District LEXIS 209448 (D.N.J. Dec. 12, 2018).

8. This Court is the District Court of the United States for the district and division embracing the place where the state court action is currently pending and is, therefore, the appropriate court for removal pursuant to 28 U.S.C. § 1441(a).

**NOTICE TO ADVERSE PARTIES AND STATE COURT**

9. Pursuant to 28 U.S.C. § 1446(a) and (d) and D. Mont. L. R. 3.3, Defendant Jayco, Inc. is filing a copy of this Notice of Removal with the Clerk of Montana Fourth Judicial District Court, Missoula County, where the action is currently pending.

10. Pursuant to 28 U.S.C. § 1446(d), Defendant Jayco, Inc. is also providing written notice to Plaintiffs of this filing by and through their attorney of record.

11. Pursuant to 28 U.S.C. § 1146(b)(2)(A), Defendant Mercedes-Benz, LLC, has been served and consents to removal.<sup>2</sup>

**RESERVATION OF RIGHTS**

12. Defendant Jayco, Inc. reserves the right to amend or supplement this Notice of Removal.

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<sup>2</sup> *Consort v. Nw. Corp.*, No. CV 20-10-BU-SEH, 2020 U.S. Dist. LEXIS 48025, at \*2 (D. Mont. Mar. 19, 2020) (quoting *Mitchell v. Paws Up Ranch, LLC*, 597 F. Supp. 2d 1132, 1135 (D. Mont. 2009)).

13. Defendant Jayco, Inc. does not intend to file an answer or first appearance, or otherwise waive any affirmative defenses, by filing this Notice of Removal and reserves all defenses.

**WHEREFORE**, pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, and D. Mont. L. R. 3.3, Jayco, Inc. respectfully requests that the above captioned action, now pending in the Montana Fourth Judicial District Court, Missoula County, be removed to the United States District Court for the District of Montana, Missoula Division.

DATED: August 17, 2021

BOONE KARLBERG P.C.

/s/Matthew B. Hayhurst

Matthew B. Hayhurst

William T. Casey

*Attorneys for Defendant Jayco, Inc.*